



Auxiliary Mortgage Activity Licensing Information

Governmental/Political Subdivisions:

The rules issued by HUD relating to the SAFE Act exempt governmental employees from the licensing requirements set out in the SAFE Act, for mortgage loans being originated under the governmental entities' authority. If your entity is truly a governmental entity, the entity and the originators under that governmental entity are exempt from SAFE licensing requirements, as it relates to loans being originated under the governmental entities' authority.

It is the responsibility of the entity to have its' legal counsel determine whether the entity is a governmental entity or not.

Bona Fide 501(c)(3) Nonprofit:

The rules issued by HUD relating to the SAFE Act exempt employees of a bona fide 501(c)(3) nonprofit from the licensing requirement set out in the SAFE Act, for mortgage loans being originated under the bona fide entities authority. To be determined bona fide, the entity must provide the Department proof that it:

- ▶ has the status of a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;
- ▶ promotes affordable housing or provides homeownership education, or similar services;
- ▶ conducts its activities in a manner that serves public or charitable purposes, rather than commercial purposes;
- ▶ receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interest of its clients;
- ▶ compensates its employees in a manner that does not incentivize employees to act other than in the best interest of its clients;
- ▶ provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and
- ▶ meets other standards as set by the Department (additional information will be requested as needed for this requirement).

Once an entity is deemed "bona fide", it will be required to submit an application through NMLS for an "Auxiliary Mortgage Loan Activity Company" license. The bona fide entity will be required to have a "Qualifying Individual" licensed and sponsored by the entity. "Qualifying Individual" is an individual who is licensed as a residential mortgage loan originator and is designated by the Auxiliary Mortgage Loan Activity Company as the company's representative and has responsibility over the employees that are conducting mortgage loan origination activities.

Entities meeting the exemption under Texas Finance Code §180.003(5):

The §180.003(5) exemption states "The following persons are exempt from this chapter: ... (5) a nonprofit organization providing self-help housing that originates zero interest residential mortgage loans for borrowers who have provided part of the labor to construct the dwelling securing the loan; ..."

An entity that believes it meets the exemption under §180.003(5), must request an exemption from the Department. The request must be in writing and explain how the entity meets this exemption.

Employees that work for entities that meet the §180.003(5) exemption are exempt from the licensing requirements set out in the SAFE Act, for mortgage loans being originated under the exempt entity.

******If your entity does not meet one of the three (3) categories above, it does not fall under the Auxiliary license type or an exemption and a determination should be made as to what other mortgage license type may be applicable for the entity.******